

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL
CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.
C.O.B. ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,
FRIGATE VENTURES LP, ANSON INVESTMENTS LP, ANSON CAPITAL
LP, ANSON INVESTMENTS MASTER FUND LP, AIMF GP, ANSON
CATALYST MASTER FUND LP, ACF GP, MOEZ KASSAM, ADAM
SPEARS, SUNNY PURI, CLARITYSPRING INC., NATHAN ANDERSON,
BRUCE LANGSTAFF, ROB COPELAND, KEVIN BAUMANN, JEFFREY
MCFARLANE, DARRYL LEVITT, RICHARD MOLYNEUX and JOHN
DOES #1-10

Defendants

And

CANACCORD GENUITY CORP.

Third Party

AND BETWEEN:

WEST FACE CAPITAL INC. and GREGORY BOLAND

Plaintiffs by Counterclaim

And

THE CATALYST CAPITAL GROUP INC., CALLIDUS CAPITAL
CORPORATION, NEWTON GLASSMAN, GABRIEL DE ALBA, JAMES
RILEY, VIRGINIA JAMIESON, EMMANUEL ROSEN, B.C. STRATEGY
LTD. D/B/A BLACK CUBE, B.C. STRATEGY UK LTD. D/B/A BLACK CUBE
and INVOP LTD. D/B/A PSY GROUP

Defendants to the Counterclaim

MOTION RECORD OF DARRYL LEVITT

February 21, 2019

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Court File No. CV-17-587463-00CL

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UK LTD. D/B/A BLACK CUBE and INVOP LTD. D/B/A PSY GROUP

Defendants to the Counterclaim

AND BETWEEN:

BRUCE LANGSTAFF

Plaintiff by Counterclaim

and

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL CORPORATION

Defendants to the Counterclaim

NOTICE OF MOTION

(Production from Non-Party)

The Defendant, Darryl Levitt (“**Levitt**”), will make a motion to a Judge presiding over the Commercial List, at 10:00am on March 4th, 2019 or such other date to be established by the Commercial List office, at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR

1. An Order requiring McEwan Enterprisess Inc. d.b.a. The McEwan Group, who the Defendant understands is the owner of One Restaurant, and Hazelton Hotels International Inc., who the Defendant understands is the owner of The Hazelton Hotel (“Hazelton”):
 - (i) to produce a copy of the video recording taken on the morning of October 11th, 2017 between 9:00am and 11:30am at One Restaurant, location at

116 Yorkville Avenue, Toronto, Ontario, M5R 1C2 near Yorkville, and also situated inside The Hazelton Hotel at 118 Yorkville Avenue, Toronto, Ontario, M5R 1C2 (the “One Recording”);

- (ii) to immediately and continually preserve and prevent the deletion or destruction of the One Recording until such time when it has been produced to the satisfaction of Levitt;
- (iii) to produce all notes of meetings and consultations between Levitt and restaurant management on the subsequent date;
- (iv) to produce all records of meal payment receipts during the times of 9:00am and 11:30am on the October 11th, 2017;
- (v) to produce all notes and correspondence between hotel security and restaurant management in relation to identification and preservation of material;
- (vi) to produce all information and documents that may assist in identifying the person or persons involved with such meeting on October 11th, 2017;
- (vii) to make all disclosure and production pursuant to this Order within twenty (20) days of this Order;

- (viii) to produce all electronic documents pursuant to this Order in native format preserving all metadata;
2. An Order declaring that the video footage and records are necessary for the just determination of a defence and counterclaim that Levitt intends to assert and that they should be produced to Levitt;
3. To the extent necessary, an Order that the word “document” used herein is used in the broadest possible sense, and includes, without limiting the generality of the foregoing, paper and electronic documents and data or data compilations, in any format, and stored in any medium whatsoever;
4. To the extent necessary, an Order validating service of this Notice of Motion on Hazelton; and
5. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE

Background

- (a) Levitt is a Toronto-based individual and lawyer;

- (b) Levitt's reputation as a leading legal practitioner in his area of expertise has been recognized extensively by his peers and clients and is essential to his continued success in the legal and business community;
- (c) the Plaintiffs in the within Action issued a Statement of Claim against several Defendants, including Levitt;
- (d) the Plaintiffs admit that they retained or caused to be retained, Black Cube, a private investigative firm staffed with former Mossad and Israeli Defence Force intelligence operatives, which conducted a series of "stings" on current and former West Face employees, and against Justice Newbould, in an attempt to elicit unlawfully confidential information of West Face, and which attacked the honour, integrity and conduct of Justice Newbould, in finding for West Face in litigation with Catalyst, and to intimidate or discredit perceived enemies of the Plaintiffs, including Levitt (the **"Black Cube Campaign"**);
- (e) Levitt alleges that the Plaintiffs repeatedly, publicly and falsely mounted a campaign of defamation in which they wrongfully accused Levitt of conspiring with others, as part of a "wolfpack" of conspirators, to manipulate illegally the share price of Callidus and profit therefrom (the **"Wolfpack Conspiracy Action"**);

- (f) Levitt has reasonable grounds to believe that certain materials and records relating to the persons who were perpetrating the Black Cube Campaign against Levitt, including but not limited to the Plaintiffs, are within the possession of Hazelton, who is not a party to this Action;
- (g) Levitt believes that the material and records in Hazelton's possession could assist Levitt by:
 - (i) providing factual details that would assist Levitt in asserting and proving his defence and asserting a counterclaim to this Action and to seek damages against the Plaintiffs and others;
 - (ii) identifying other individuals and persons, not yet known to Levitt, who were also involved in the Black Cube Campaign and this Action; and
 - (iii) helping Levitt to locate other individuals and persons involved in perpetrating the Black Cube Campaign and this Action for the purpose of serving them to seek damages.

Evidence Relevant to the Wolfpack Conspiracy Action and the Black Cube Campaign

- (h) Levitt alleges that Black Cube operatives invited him for a meeting at One Restaurant at the Hazelton Hotel under false pretense in order to entice him to

disclose privileged and confidential information relating to litigation against Callidus, disclose information about Catalyst, as well as assess the extent of his knowledge relating to portfolio companies of the Plaintiffs in an effort to uncover the identity of any alleged whistleblowers;

- (i) Levitt alleges that such conduct was also designed to intimidate him;
- (j) through his investigative efforts, Levitt has reason to believe that Black Cube operatives met with him;
- (k) through his investigative efforts, Levitt determined that One Restaurant and The Hazelton Hotel have a practice of making video recordings at its locations;
- (l) Levitt has confirmed with personnel at the One Restaurant that they took video recordings of the respective location at the relevant time – the One Recording;
- (m) Personnel at the One Restaurant have confirmed that the One Recording has been preserved;
- (n) Personnel at the One Restaurant have confirmed that they requires a court Order to produce the preserved video recordings;

- (o) Levitt has reason to believe that the One Recording captures video images of the meeting that took place between Black Cube operatives and Levitt in furtherance of the Black Cube Campaign and Wolfpack Conspiracy Action and that the video recordings will help identify the perpetrators;
- (p) One Restaurant and the Hazelton Hotel are the only entities in possession of the One Recording;
- (q) Personnel at the One Restaurant have confirmed that they do not have a position with respect to the within motion;
- (r) Through an article that appeared in the Globe and Mail on January 25, 2019, Levitt became aware that the person posing as Michel Lambert strongly resembled the same person that had met with Levitt under false pretense and that his method of operating strongly resembled those as described in the relevant article. A subsequent investigation by the New York Times has revealed that such person recently attempted to elicit anti-Semitic comments from a non-profit organization, Citizens Lab, in an attempt to discredit its research, and that such person is a resident of Israel with former ties to the Israeli security establishment;
- (s) Such person identified himself at the meeting with Levitt and in email correspondence with Levitt, as Victor Petrov;

- (t) Levitt has limited information about the true identity, whereabouts or contact information of the persons responsible for establishing communications with him but has reason to believe the Plaintiffs or their agents are ultimately responsible;
- (u) Levitt believes that the correspondence and request for meetings were established at the direction of the Plaintiffs, as part of a campaign to damage Levitt's reputation in the legal and business community, to attempt to discredit Levitt, and by trying to obtain privileged and confidential information relating to litigation with the Plaintiffs as well as attempting to uncover identities of whistleblowers ;
- (v) Levitt seeks such information and documents (i.e. the One Recording) in order to properly identify the person and/or persons directly responsible for the correspondence and the meeting to enable him to prove the involvement of the Plaintiffs, to identify any additional wrongdoers involved in the above-noted conduct, and to obtain evidence that he would otherwise be unable to obtain to assert a defense in his claim and assert a counterclaim for damages.

The Requested Disclosure is Material to Levitt's Defence and Potential Counterclaim - without it would be unfair to Levitt

- (w) Levitt has reason to believe that the One Recording, (the "Requested Disclosure") is relevant to a defense and to a successful counterclaim;

- (x) Levitt has reason to believe that the One Recording relates to a meeting that took place between Levitt and a Black Cube operative and that this evidence may be helpful:
 - (i) in showing that the Plaintiffs are behind a conspiracy to harm Levitt's reputation, including the Black Cube Campaign; and/or
 - (ii) in identifying the Black Cube operatives or other parties that ought to be named as defendants to a counterclaim that Levitt intends to assert, or that may be material witnesses to the Wolfpack Conspiracy Action;
 - (iii) to facilitate an investigation as to whether any of his rights under the Canadian Charter have been violated; and
 - (iv) to determine whether any further wrongful and unlawful acts have been perpetrated against Levitt.
- (y) such Requested Disclosure would be relevant to material issues in this proceeding;
- (z) it would be unfair to require Levitt to proceed without having this evidence available to him;

- (aa) there would be no unfairness to the Respondents to oblige them to disclose the information requested;
- (bb) the interests of justice favour the disclosure sought by Levitt;
- (cc) Levitt is ready, able and willing to reimburse the Respondents for any reasonable costs associated with complying with the Orders requested;
- (dd) Rules 1.04, 16, and 30.10, of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
- (ee) This Honourable Court's inherent and equitable jurisdiction to grant the relief sought, including pursuant to Section 96 of the *Courts of Justice Act*, R.S.O, 1990, c. C 43; and
- (ff) such further and other grounds as this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The affidavit of Darryl Levitt sworn February 20, 2019;
2. Such further and other evidence as counsel may advise and this Honourable Court may Permit.

February 6th, 2019

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 Plaintiffs by Counterclaim
 BRUCE LANGSTAFF
 Plaintiff by Counterclaim

- and - WEST FACE CAPITAL INC. et al.
 Defendants
 - and - THE CATALYST CAPITAL GROUP et. al.
 Defendants to the Counterclaim
 - and - THE CATALYST CAPITAL GROUP INC. et al.
 Defendants to the Counterclaim

Count File No. CV-17-587463-00CL

**ONTARIO
 SUPERIOR COURT OF JUSTICE
 COMMERCIAL LIST**

PROCEEDING COMMENCED AT
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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL
CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.
C.O.B. ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,
FRIGATE VENTURES LP, ANSON INVESTMENTS LP, ANSON CAPITAL
LP, ANSON INVESTMENTS MASTER FUND LP, AIMF GP, ANSON
CATALYST MASTER FUND LP, ACF GP, MOEZ KASSAM, ADAM
SPEARS, SUNNY PURI, CLARITYSPRING INC., NATHAN ANDERSON,
BRUCE LANGSTAFF, ROB COPELAND, KEVIN BAUMANN, JEFFREY
MCFARLANE, DARRYL LEVITT, RICHARD MOLYNEUX and JOHN
DOES #1-10

Defendants

And

CANACCORD GENUITY CORP.

Third Party

AND BETWEEN:

WEST FACE CAPITAL INC. and GREGORY BOLAND

Plaintiffs by Counterclaim

And

THE CATALYST CAPITAL GROUP INC., CALLIDUS CAPITAL
CORPORATION, NEWTON GLASSMAN, GABRIEL DE ALBA, JAMES
RILEY, VIRGINIA JAMIESON, EMMANUEL ROSEN, B.C. STRATEGY
LTD. D/B/A BLACK CUBE, B.C. STRATEGY UK LTD. D/B/A BLACK CUBE
and INVOP LTD. D/B/A PSY GROUP

Defendants to the Counterclaim

**Affidavit of Darryl Levitt
(sworn February 20, 2019)**

I, Darryl Levitt, of the City of Toronto, in the Province of Ontario, MAKE OATH AND
SAY:

1. I am a defendant in this action brought by The Catalyst Capital Group Inc. (“**Catalyst**”) and Callidus Capital Corporation (“**Callidus**”). As such, I have personal knowledge of the matters contained in this Affidavit, except where facts are stated to be based on information and belief, in which case I have identified the source of my information and believe the information to be true.

Background

2. I am a Toronto-based corporate lawyer with particular expertise in mining and energy law. I rely heavily on my reputation in the Toronto community to obtain clients, and my reputation is essential to my continued success in the legal and business community. As set out below, I believe that I was the target of a “sting” operation conducted by Catalyst and its agents at the One Restaurant, a boutique restaurant located on Yorkville Avenue in Toronto

3. I understand that the Respondent, McEwan Enterprises Inc., is the owner of One Restaurant, where the relevant events set out below took place. The website for the One Restaurant states that “Chef Mark McEwan’s ONE is a McEwan Group restaurant” and “McEwan Group” is a business name registered to McEwan Enterprises Inc. A copy of the One Restaurant website is attached to my Affidavit as **Exhibit “A”** and a copy of the business name search for the McEwan Group is attached hereto as **Exhibit “B”**.

4. The One Restaurant is located inside the Hazelton Hotel at 118 Yorkville Avenue in Toronto. I understand that the Respondent, Hazelton Hotels International Inc., is the owner of the Hazelton Hotel. This is based on the trademark registration for the logo of

the Hazelton Hotel, which lists Hazelton Hotels International Inc. as the owner of that trademark, and provides the address for Hazelton Hotels International Inc. as 118 Yorkville Avenue, the location of the Hazelton Hotel. A copy of this trademark listing is attached hereto as **Exhibit “C”** and a copy of the Corporation Profile Report for Hazelton Hotels International Inc. is attached as **Exhibit “D”**.

The Sting Operation and the One Recording

5. I have read a series of documents which suggest Catalyst has engaged in a series of “sting” operations designed to obtain confidential or embarrassing material. My understanding is based on:

- a. a report that I read in the National Post dated November 14, 2017, detailing efforts by Black Cube, a private investigative firm staffed with former Mossad agents and Israeli Defense Force Operatives, to obtain damaging information from Justice Newbould, now retired from the Commercial List, who was the presiding judge in litigation where Catalyst was unsuccessful. A copy of that report is attached hereto as **Exhibit “E”**.
- b. The motion record filed by West Face Capital Inc., a Defendant and Plaintiff by Counterclaim in this action, detailing efforts by Catalyst and Black Cube to obtain information from employees of West Face Capital Inc. Relevant excerpts of the motion record are attached hereto as **Exhibit “F”**.
- c. An article from the Globe and Mail from January 25, 2019 describing how “undercover operatives” targeted researchers who reported that Israeli-

made software was being used to spy on close acquaintances of Washington Post journalist Jamal Khashoggi, prior to his gruesome death. A copy of that article is attached hereto as **Exhibit “G”**. While that article makes no mention of Catalyst, there are a number of similarities between the events described in that article, my experiences described below, and the operations conducted by Catalyst.

6. I believe that I am the latest victim of Catalyst’s campaign of “sting” operations. On or around October 2, 2017, I was approached by an individual identifying herself as Helena Weiss of KWE Consulting and the personal assistant to a “Mr. Petrov”. “Helena Weiss” asked to set up a meeting to engage me as an expert to provide advice in the Canadian energy and mining sector, and to better understand my experience and explore my potential fit for their needs. A copy of this email is attached hereto as **Exhibit “H”**.

7. I engaged in a series of email correspondence with “Helena Weiss” to set up a meeting. Copies of these emails are attached hereto as **Exhibit “I”**. In this correspondence, after I repeatedly asked for more details about “Mr. Petrov”, “Helena Weiss” identified that his first name was “Victor”.

8. I have conducted a number of Internet searches, but have been unable to locate much information about the individuals identifying themselves as “Helena Weiss” or “Victor Petrov” (collectively, the Unidentified Individuals). I have learned that “Victor Petrov” is the name of a fictional character in the television series “House of Cards” and, as set out below, the individual who met me and introduced himself as “Victor Petrov” resembles an individual whose photograph is featured in the article attached hereto as

Exhibit G and who is identified in that article as having used the alias “Michel Lambert” in a sting operation against researchers who were investigating spying software used against Washington Post journalist Jamal Khashoggi prior to his untimely death.

9. On October 11, 2017 at approximately 9:00am, I met with the Unidentified Individuals at the One Restaurant, located inside the Hazelton Hotel at 116 Yorkville Ave in Toronto. At that meeting, “Victor Petrov” claimed to have enormous experience in North Africa and represented that a European hedge fund with over one billion Euros in investments required some assistance to navigate an investment into one of the portfolio assets of Catalyst Capital that had been identified by researchers as a problematic asset requiring further investigation. I was also questioned on whether I knew details of the operations of the Plaintiffs in this action as well as my knowledge of valuation methodologies of the Plaintiffs which had been subject to criticism. It seemed he was trying to induce me to reveal confidential information which it would have been inappropriate for me to disclose. Despite increasingly probing questioning, I refused to provide such information.

10. My experience bears a striking similarity to the sting operations against Justice Newbould and West Face employees, as well as the events described in the Globe and Mail article at **Exhibit G**. In each case, the target of the campaign was invited for a meal at a high-end Toronto restaurant under false pretences. In each case, the sting operatives then asked a series of increasingly suspicious questions which appeared designed to elicit confidential and/or embarrassing information.

11. Based on discussions with personnel at the One Restaurant as well as counsel to McEwan Enterprises Inc., I understand that McEwan Enterprises Inc. has the following documents in its possession:

- a. a video recording of the dining room, taken on October 11, 2017 at the premises of One Restaurant, 116 Yorkville Avenue, Toronto, Ontario, between the hours of 9:00 am to 11:30 am (the “**One Recording**”); and
- b. records of the following (collectively, the “**Additional Documents**”):
 - i. meal payment receipts generated by McEwan Enterprises Inc. and/or its employees for One Restaurant during the times of 9:00 a.m. and 11:30 a.m. on October 11, 2017;
 - ii. reports and/or notes, generated by McEwan Enterprises Inc. and/or its employees in connection with its meetings and consultations with me; and
 - iii. notes and correspondence between hotel security and restaurant management in relation to the identification and preservation of the One Recording and related material.

12. I have corresponded with personnel at the One Restaurant and the Hazelton Hotel, including the General Manager of One Restaurant, Jennifer Belanger, who confirmed that a copy of the One Recording has been retained. Ms. Belanger’s email to me in this regard is attached hereto as **Exhibit “J”**. Also, counsel to McEwan Enterprises Inc. initially contacted me to state that they do not oppose this motion so long as certain terms are included in the Order. That email is attached hereto as **Exhibit**

“K”. I included the terms requested by McEwan Enterprises Inc.’s counsel in the Draft Order in Tab 3 of my Motion Record. Subsequently, counsel to McEwan Enterprises Inc. further advised that they require additional client approval but do not expect their requested terms to change significantly. A copy of that email is attached hereto as **Exhibit “L”**. I intend to update the court further once I have received final authorization from McEwan Enterprises Inc.’s counsel, which they expect to provide next week as set out in **Exhibit L**.

13. I believe that the One Recording and the Additional Documents are relevant to my defence in this action. Among other things, the claim against me includes that I allegedly engaged in a conspiracy to harm the Plaintiffs which was executed by, among other things, false complaints that the Plaintiffs engage in unethical business practices. As a result, I believe that the One Recording and the Additional Documents are highly relevant to my defence of this action as, among other things, they would assist me in showing the types of practices that the Plaintiffs do in fact engage in.

14. I also believe that I may have a cause of action against the Unidentified Individuals. My belief is based on, among other things, the similarities between my experience and the ones described above, the resemblance between “Victor Petrov” and “Michel Lambert” in **Exhibit G**. I also believe that the One Recording and the Additional Documents are relevant to a Counterclaim that I intend to bring against Catalyst. I have not yet served and filed my Statement of Defence and Counterclaim, as I am awaiting the filing of an Amended Statement of Claim by Catalyst and Callidus following the decision of Justice Wilton-Siegel to strike significant portions of their claim against me and others.

15. I have little information that I can use to identify or investigate the Unidentified Individuals or to prove their involvement as I have no photographs or recordings of their meeting with me. I do not have an alternative method of identifying them as I do not have photographs or recordings of the Unidentified Individuals. Moreover, these individuals appear to have used aliases in their interactions with me. For example, based only on my recollection of the meeting, the individual who identified himself as Victor Petrov appears to resemble an individual who used the alias "Michel Lambert" in a sting operation against researchers who were investigating spying software used against Washington Post journalist Jamal Khashoggi prior to his untimely death. The photograph of "Michel Lambert" is shown in the article attached hereto as **Exhibit G**.

16. I know of no expense or inconvenience involved in producing the One Recording and the Additional Documents, but in any event, I am willing and able to reimburse the Respondents for their reasonable costs in doing so.

17. I do not know how long the One Recording and the Additional Documents will realistically be preserved without an order from this Court directing that they be preserved and produced. I therefore believe that time is of the essence.

Sworn before me in the City of Toronto, in the
Province of Ontario on February 20, 2019.



Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSUC#: 65919L



DARRYL LEVITT

This is Exhibit "A" in the Affidavit of Darryl Levitt
sworn February 20, 2019

A handwritten signature in black ink, appearing to read "Anisah Hassan", written over a horizontal line.

Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSUC#: 65919L



ONE RESTAURANT

WE DELIVER... THE SEE AND BE SCENE



ONE Restaurant is chef and restaurateur Mark McEwan's North American contemporary Yorkville hotspot. With a variety of beautiful dining spaces to choose from, and dishes that will delight the palate, ONE is sure to impress.

The restaurant's stunning décor was fashioned by award winning design group Yabu Pushelberg. Low light and textured walls create a sumptuous ambiance, perfect for entertaining. The tree-lined candle lit patio is the perfect place to sit back and savour ONE's culinary creations and unique signature cocktails, all the while taking in Yorkville's bustling and exciting street life.

If it is private dining you are interested in, ONE Restaurant has two exquisite spaces to offer. The smaller and more intimate Neil Young Room, located off the main dining room and the grand and impressive Yorkville Room, situated just beyond the entrance to the bar lounge.

Whether the occasion be personal or business, you and your guests will walk away, not only satisfied, but with an experience to remember.

ONE Restaurant is located in the boutique [Hazelton Hotel](#).



BOOK A TABLE



MENUS



MEET THE CHEFS



PRIVATE DINING



CONTACT US

MEETINGS BY
MCEWAN

NEWS

Sign up for our email newsletter:

Name Email Address [GO](#)



Chef Mark McEwan's ONE is a McEwan Group restaurant.

© Copyright The McEwan Group. | [Careers](#)

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This is Exhibit "B" in the Affidavit of Darryl Levitt
sworn February 20, 2019

A handwritten signature in black ink, appearing to read "Anisah S. Hassan", written over a horizontal line.

Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSUC#: 65919L

Customer Onboarding Verification Report (COVR)



Transaction ID: 5843909

Page: 1 of 2

Request Date: 2019-02-07 11:48:04

Report Date: 2019-02-07 11:48:13

Customer Entity Information	
Item	Reported Results
Business Legal Name:	THE MCEWAN GROUP
Registration / Incorporation Number:	271067431
CRA Business Number:	NOT PROVIDED
Jurisdiction:	ONTARIO
Registration / Incorporation Date: (YYYY-MM-DD)	2017-10-04
Type:	BUSINESS
Registry Type:	BUSINESS NAME - CORPORATION
Entity Status:	ACTIVE
Mailing Address:	38 KARL FRASER ROAD TORONTO, ONTARIO CANADA, M3C 0H7
Newly Registered / Incorporated: (within one year)	NO

Customer Onboarding Verification Report (COVR)



Transaction ID: 5843909

Page: 2 of 2

Request Date: 2019-02-07 11:48:04

Report Date: 2019-02-07 11:48:13

Registrant Information		
Name	Type	Address
MCEWAN ENTERPRISES INC. CORPORATE NUMBER: 1983181	CORPORATION	38 KARL FRASER ROAD TORONTO, ONTARIO CANADA, M3C 0H7

BUSINESS NAMES REPORT

Business name registered under the <i>Business Names Act</i>	Business Identification Number
THE MCEWAN GROUP	271067431
	Business Type
	BUSINESS NAME - CORPORATION
Mailing Address	Business Address in Ontario
38 KARL FRASER ROAD	38 KARL FRASER ROAD
TORONTO	TORONTO
ONTARIO	ONTARIO
CANADA, M3C 0H7	CANADA, M3C 0H7
Activity being carried out	
RESTAURANTS, CATERING & SUPERMARKETS	
Registration Date	Expiry Date
2017/10/04	2022/10/03
Renewal Date	Amendment Date(s)
NOT APPLICABLE	NOT APPLICABLE
Last Document Filed	Cancellation Date
NEW REGISTRATION	NOT APPLICABLE
Last Document Filed Date	
2017/10/04	


BUSINESS NAMES REPORT

Business name registered under the <i>Business Names Act</i>	Business Identification Number
THE MCEWAN GROUP	271067431
	Business Type
	BUSINESS NAME - CORPORATION
<hr/>	
Corporation Name	Corp. Registered/Head Office Address
MCEWAN ENTERPRISES INC.	38 KARL FRASER ROAD
	TORONTO ONTARIO CANADA, M3C 0H7
Corporate Number	Jurisdiction of Corporation
1983181	ONTARIO
	Corporation Status
	ACTIVE
Person Authorizing the Registration	
MCEWAN, MARK	

This Report sets out the most recent information registered on or after April 1, 1994 and recorded in the Ontario Business Information System as of the last business day.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

This is Exhibit "C" in the Affidavit of Darryl Levitt
sworn February 20, 2019



Commissioner for Taking Affidavits
(or as may be)

Anleah S. Hassan
LSUC#: 65919L

Canadian Trademarks Details

Third-party information liability disclaimer

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1243525 - THE HAZELTON & DESIGN



Application/Registration numbers

Application number	1243525
Registration number	TMA724826

Status

CIPO status	REGISTERED
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Key Dates

Filed	2005-01-13
Registered	2008-09-30

Interested Parties

Registrant	Yorkville Hazelton Development Partnership 30 St. Clair Avenue West Suite 1400 Toronto M4V 3A1 ONTARIO
Representative for service	DENTONS CANADA LLP 99 BANK STREET SUITE 1420 OTTAWA ONTARIO K1P 1H4
Current owner	Hazelton Hotels International Inc. 118 Yorkville Avenue Toronto M5R 1C4 ONTARIO
Representative for service	DENTONS CANADA LLP 99 BANK STREET SUITE 1420 OTTAWA ONTARIO K1P 1H4

Descriptive Reference

Name	THE HAZELTON & DESIGN
Type	Design Mark
Category	Trade-mark

Index headings

THE HAZELTON YORKVILL

Vienna information

Code	Description
24.1.3	Shields containing representations of geometrical figures or solids, lines, bands or partitions
24.1.5	Shields containing other figurative elements or inscriptions
24.1.15	Shields containing inscriptions
24.1.17	Shields with figurative elements or inscriptions placed outside
24.1.18	Shields surmounted by figurative elements or inscriptions
24.1.19	Shields with supporters
24.1.20	Shields with figurative elements or inscriptions placed outside in any other way
25.5.5	Backgrounds divided crosswise, vertically and horizontally

3.1.1	Lions
3.1.2	Heraldic lions
3.1.22	Animals of series I with forepaw(s) resting on an escutcheon or other object
24.9.1	Crowns closed at the top (by cap of estate or chapeau)
25.1.6	Banderoles, cartouches

Services

(1) Hotel services, restaurant services, catering services, parking services, valet services, providing exercise and sports facilities, health spa services and conference facilities.

(2) Real estate services, namely, development, construction, listing, leasing, selling, financing, operating, and managing commercial, retail, and residential properties, hotel, condominium, and spa facilities, and facilities and amenities relating thereto namely restaurants and bars, meeting and private function facilities.

Classification data

Disclaimer

The classification data is provided for information and searching purposes only. CIPO does not warrant the accuracy of the classes assigned to the trademark. This data has no legal value of any kind.

36 - Insurance and financial
 37 - Building construction and repair
 39 - Transportation and storage
 41 - Education and entertainment
 43 - Accommodation, food and drink
 44 - Medical and veterinary, beauty, agricultural and forestry

Claims

Used in CANADA since December 13, 2004 on services (2).
 Declaration of Use filed August 28, 2008 on services (1).

Associated marks

TMA682,128

TMA724,827

Recordals (known also as Footnotes)

CHANGE IN TITLE/CHANGEMENT EN TITRE: TYPE OF CHANGE/GENRE DE CHANGEMENT: Assignment/Cession
 DATE REGISTERED/DATE DE L'ENREGISTREMENT: 08 mai/May 2013 DATE OF CHANGE/DATE DE CHANGEMENT:
 28 mars/Mar 2013 COMMENTS/COMMENTAIRES: FROM: Yorkville Hazelton Development Partnership TO:
 Hazelton Hotels International Inc. Voir Preuve au dossier/See evidence on File No. 1259535

Actions

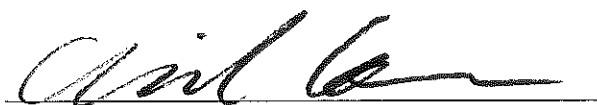
Action	Action date	Response date	Comments
Filed	2005-01-13		
Created	2005-01-14		
Formalized	2005-01-14		
Search Recorded	2005-05-24		
Examiner's First Report	2005-05-25	2005-09-25	
Rep for Service Changed	2005-06-03		From: 2975 To: 4783 / Voir Preuve au dossier/See evidence on File No. 1243519
Agent Changed	2005-06-03		From: 2975 To: 4783 / Voir Preuve au dossier/See evidence on File No. 1243519
Extension of Time	2005-09-19	2006-01-25	Request Letter Date: 2005/09/14
Correspondence Created	2007-10-15	2008-02-15	
Rep for Service Changed	2007-12-03		From: 4783 To: 10655 / Voir Preuve au dossier/See evidence on File No. 1259535
Agent Changed	2007-12-03		From: 4783 To: 10655 / Voir Preuve au dossier/See evidence on File No. 1259535

Approved	2007-12-21		
Extracted for Advertisement	2008-01-03		Vol.55 Issue 2777 2008/01/16
Advertised	2008-01-16		Vol.55 Issue 2777
Allowed	2008-04-04		
Allowance Notice Sent	2008-04-04	2008-10-04	
Registered	2008-09-30		
Rep for Service Name Change	2013-04-04		
Change in Title Registered	2013-05-08		Assignment / Voir Preuve au dossier/See evidence on File No. 1259535

Date modified:

2018-10-25

This is Exhibit "D" in the Affidavit of Darryl Levitt
sworn February 20, 2019

A handwritten signature in black ink, appearing to read "Anisah S. Hassan", written over a horizontal line.

Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSUC#: 65919L

Ontario Corp Number	Corporation Name	Incorporation Date
2040852	HAZELTON HOTELS INTERNATIONAL INC.	2004/02/11
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address	Date Amalgamated	Amalgamation Ind.
	NOT APPLICABLE	NOT APPLICABLE
30 ST. CLAIR AVENUE WEST		
Suite # 1100		
TORONTO	NOT APPLICABLE	NOT APPLICABLE
ONTARIO		
CANADA M4V 3A1		Letter Date
Mailing Address		NOT APPLICABLE
30 ST. CLAIR AVENUE WEST	Revival Date	Continuation Date
	NOT APPLICABLE	NOT APPLICABLE
Suite # 1100		
TORONTO	Transferred Out Date	Cancel/Inactive Date
ONTARIO		
CANADA M4V 3A1	NOT APPLICABLE	NOT APPLICABLE
	EP Licence Eff.Date	EP Licence Term.Date
	NOT APPLICABLE	NOT APPLICABLE
	Number of Directors MinimumMaximum	Date Ceased in Ontario
	0000100020	NOT APPLICABLE
Activity Classification		
NOT AVAILABLE		

Request ID: 022687263
Transaction ID: 70759570
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/02/07
Time Report Produced: 10:36:58
Page: 2

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CORPORATION PROFILE REPORT

Ontario Corp Number

2040852

Corporation Name

HAZELTON HOTELS INTERNATIONAL INC.

Corporate Name History

HAZELTON HOTELS INTERNATIONAL INC.

Effective Date

2004/02/11

Current Business Name(s) Exist:

YES

Expired Business Name(s) Exist:

NO

Administrator: Name (Individual / Corporation)

PETER
F.
COHEN

Address

34 HIGHT POINT ROAD

TORONTO
ONTARIO
CANADA M3C 2R3

Date Began

2004/02/11

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

CHIEF EXECUTIVE OFFICER

Resident Canadian

Request ID: 022687263
Transaction ID: 70759570
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/02/07
Time Report Produced: 10:36:58
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CORPORATION PROFILE REPORT

Ontario Corp Number

2040852

Corporation Name

HAZELTON HOTELS INTERNATIONAL INC.

Administrator:

Name (Individual / Corporation)

PETER
F.
COHEN

Address

34 HIGHT POINT ROAD

TORONTO
ONTARIO
CANADA M3C 2R3

Date Began

2004/02/11

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

CHAIRMAN

Resident Canadian

Administrator:

Name (Individual / Corporation)

PETER
F.
COHEN

Address

34 HIGHT POINT ROAD

TORONTO
ONTARIO
CANADA M3C 2R3

Date Began

2004/02/11

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 022687263
Transaction ID: 70759570
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/02/07
Time Report Produced: 10:36:58
Page: 4

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CORPORATION PROFILE REPORT

Ontario Corp Number

2040852

Corporation Name

HAZELTON HOTELS INTERNATIONAL INC.

Administrator:

Name (Individual / Corporation)

PERCY

FINK

Address

30 ST. CLAIR AVENUE WEST

Suite # 1100
TORONTO
ONTARIO
CANADA M4V 3A1

Date Began

2004/02/11

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

CHIEF FINANCIAL OFFICER

Resident Canadian

Administrator:

Name (Individual / Corporation)

BRUCE

GREENBERG

Address

188 EGLINTON AVENUE EAST

Suite # 800
TORONTO
ONTARIO
CANADA M4P 2X7

Date Began

2004/02/11

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 022687263
Transaction ID: 70759570
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/02/07
Time Report Produced: 10:36:58
Page: 5

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CORPORATION PROFILE REPORT

Ontario Corp Number

2040852

Corporation Name

HAZELTON HOTELS INTERNATIONAL INC.

Administrator:

Name (Individual / Corporation)

BRUCE
GREENBERG

Address

188 EGLINTON AVENUE EAST

Suite # 800
TORONTO
ONTARIO
CANADA M4P 2X7

Date Began

2004/02/11

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

OTHER

Resident Canadian

Administrator:

Name (Individual / Corporation)

JAY
HENNICK

Address

77 KING STREET WEST
ROYAL TRUST TOWER, TD CENTRE
Suite # 4400
TORONTO
ONTARIO
CANADA M5K 1G8

Date Began

2004/02/11

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 022687263
Transaction ID: 70759570
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/02/07
Time Report Produced: 10:36:58
Page: 6

044

CORPORATION PROFILE REPORT

Ontario Corp Number

2040852

Corporation Name

HAZELTON HOTELS INTERNATIONAL INC.

Administrator:

Name (Individual / Corporation)

JAY

HENNICK

Address

77 KING STREET WEST
ROYAL TRUST TOWER, TD CENTRE
Suite # 4400
TORONTO
ONTARIO
CANADA M5K 1G8

Date Began

2004/02/11

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

SECRETARY

Resident Canadian

Request ID: 022687263
Transaction ID: 70759570
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2019/02/07
Time Report Produced: 10:36:58
Page: 7

045

CORPORATION PROFILE REPORT

Ontario Corp Number

2040852

Corporation Name

HAZELTON HOTELS INTERNATIONAL INC.

Last Document Recorded

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	1	2008/07/08 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

PLEASE NOTE THAT WHEN THE SAME INDIVIDUAL HOLDS MULTIPLE 'OTHER UNTITLED' OFFICER POSITIONS, AS INDICATED ON A FORM 1 UNDER THE *CORPORATIONS INFORMATION ACT*, ONLY ONE OF THESE 'OTHER UNTITLED' POSITIONS HELD BY THAT INDIVIDUAL WILL BE REFLECTED ON THIS REPORT.

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The issuance of this report in electronic form is authorized by the Director of Companies and Personal Property Security Branch.

This is Exhibit "E" in the Affidavit of Darryl Levitt
sworn February 20, 2019

A handwritten signature in black ink, appearing to read 'Anleah', written over a horizontal line.

Commissioner for Taking Affidavits
(or as may be)

Anleah S. Hassan
LSUC#: 65919L

EXCLUSIVE: THE JUDGE, THE STING, BLACK CUBE AND ME



Christie Blatchford: How a legal battle between two ferociously competitive Toronto firms took a dark turn

CHRISTIE BLATCHFORD
National Post

A former Ontario Superior Court judge was targeted in a sting designed to discredit him days before his decision in a controversial case with hundreds of millions of dollars at stake was scheduled to be heard at the Ontario Court of Appeal.

The sting saw the 74-year-old former judge, Frank Newbould, audiotaped and photographed surreptitiously at a posh Toronto restaurant as an agent posing as a potential client apparently tried to induce him, in vain, to make anti-Semitic remarks.



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ferociously competitive Toronto private-equity firms whose feud hasn't yet ended in the courtroom.

A source authorized to speak for Catalyst acknowledges that a subcontractor working for a security company it hired carried out the sting on the judge. But the source said Catalyst did not order the sting or know about it until after it happened.

The subcontractor was the Israeli intelligence firm Black Cube, recently in the news as the same private agency Hollywood film producer Harvey Weinstein hired to undermine the women accusing him of sexual assault. Black Cube later apologized for taking the job and said it would donate the fee to women's groups.

Last week in response to another lawsuit filed against it by Catalyst — the fourth since 2014 — West Face alleged in court documents that operatives from Black Cube pretended to be recruiters in an attempt to get information from some of its current and former employees.



A sting arranged by Israeli intelligence firm Black Cube saw former judge Frank Newbould audiotaped and photographed surreptitiously at a posh Toronto restaurant in September 2017.

The sting on Newbould began Sept. 18 with an appointment arranged via email with a man who said his name was Hugo Gabriel Saavedra Rodriguez. He said he was the executive director at Victorius Group, a consultancy firm purportedly based in London, England, but with international interests.

But Companies House, the United Kingdom's government registrar of companies, has no record of a company by that name at the given address.

The two met at Newbould's downtown office. Rodriguez claimed to represent a Canadian company involved in the oil sands business that was unhappy with a competitor who "had gone behind my client's back" and allegedly used its technology to get licences to drill in Africa and Israel.

Three months earlier, in June, Newbould had stepped down from the bench amid a controversy over his involvement in an aboriginal land claim dispute near his family cottage at Sauble Beach on Lake Huron.

A judicial inquiry into a complaint that he had shown a “lack of sensitivity to the experiences of Aboriginal peoples” and derailed a proposed settlement of the claim by speaking out against it was stopped because Newbould resigned. However, he said at the time that he wasn’t forced to quit and had decided two or three years before to retire from the bench early.

Almost immediately he joined Arbitration Place, a downtown Toronto agency for arbitrators, and also joined the law firm of Thornton Grout Finnigan as counsel.

In the first meeting at Newbould’s office, Rodriguez said he thought his case might have to be heard in New York, but he expressed doubts about getting a fair hearing there because of “the Jewish lobby or influence in New York.”



Four times in this conversation, Rodriguez mentioned as a potential problem for his client “the Jewish lobby or influence,” “the Jewish issue,” “the Jewish way of doing things.... All the time trying to take more than they should, and more than agreed.”

Newbould failed to rise to the bait, repeatedly responding only with such benign disclaimers as “there’s good Jewish people and there’s some bad Jewish people ... some good Spaniards and bad Spaniards” and “My experience is arbitrators aren’t influenced by that (ethnicity).”

He also tried to explain the rules of arbitration to Rodriguez and the two agreed to discuss the job over dinner that night at Scaramouche, an expensive midtown Toronto restaurant known equally for its fine food and sweeping views. Rodriguez paid.

capture the back of Rodriguez.

They quickly returned to that morning's discussion. With little preamble, Rodriguez said the man heading the company that was allegedly stealing his client's technology was "this Jewish guy."

Newbould ignored this, told him he needed to retain both a lawyer and an arbitrator, and said it wasn't clear to him which role Rodriguez saw for him. "If you have in mind that I would be the arbitrator," he said, "I couldn't give you advice on all that you're asking me."

To do so, he said, would be inappropriate. "I couldn't do that," Newbould said. "Nobody, no good arbitrator, would ever do that."

In the course of the night, Newbould at one point made what could be described as an intemperate remark, though, seemingly to the regret of the agent's employers, it wasn't about Jews but about Chinese witnesses.

At one point, Rodriguez asked if a judge could make a decision on the basis of what he heard verbally, and Newbould said no, courts are document-heavy.

"The documents tell the story, for the most part," he said, then mentioned, "I had a case a year and a half ago now I guess, a lawsuit between two hedge funds and one hedge fund was trying to acquire a telecommunications company..."



Newbould said the plaintiff in the suit was named "Glassman and he is a terrible witness."

If it was perhaps indiscreet, it was nothing Newbould hadn't also said in his public decision.

Newton Glassman is the founder and managing partner of Catalyst, which sued West Face, accusing it of obtaining confidential information

Moyse left Catalyst for West Face in 2014, four months before a consortium of investors led by West Face successfully acquired WIND in a deal valued at approximately \$300 million. In 2015, the group sold the wireless carrier to Shaw Communications for \$1.6 billion.

Catalyst has claimed it lost out on \$750 million in potential profit.

In his lengthy Aug. 18, 2016 decision, Newbould ruled against Catalyst. He was harshly critical of Catalyst witnesses, particularly Glassman, whom he described as “aggressive, argumentative” and more of a “salesman than an objective witness.”

He simply could not accept being “outsmarted” on the WIND deal, the judge said later, when awarding costs.

It would have been a humiliating rebuke for the proud and combative head of the successful company founded in 2002.

The judge ordered Catalyst to pay Moyse \$340,000. He also awarded costs of \$1.2 million to West Face on what’s called “a substantial indemnity basis” because, the judge said, Glassman had played such “hardball attacking the reputation and honesty of West Face.”

In fact, the judge had no idea then of what hardball really was.

A day before Newbould and Rodriguez met, I received an email from a woman I didn’t know. The subject line said: “Exclusive story offer — Judge Frank Newbould’s record might unravel September 20th.”

She gave me a one-sided, six-paragraph interpretation of the Catalyst/West Face/WIND Mobile case, and offered to connect me with a spokesperson “that can prove evidence was destructed in the case and that Newbould’s ultimate ruling completely ignored it.”

She also wrote, “In addition, information is brewing about a wolf pack of companies that West Face is involved with as well — we can connect you with the investigators” and offered a meeting with her source.

(Catalyst filed a \$450-million lawsuit on Nov. 8 accusing West Face and others of being “Wolfpack conspirators” in a short-selling campaign targeting a publicly traded lender in which it holds the majority stake. West Face denies the allegations, and called the lawsuit meritless.)

living in New York City who said she chose me because her parents were big readers of mine.

When I pressed her, she insisted that was the reason, and added she'd been asked to do a favour for a friend by finding a suitable Canadian reporter.

For several days, she peppered me with emails — there was clearly some urgency to the matter — and on Sept. 19, wrote, "I have arranged for an exclusive background meeting btw yourself and the leading figure from Catalyst.

"He is in Montreal today but will fly to Toronto — ideally tomorrow — to meet with you. I'll come back to you on times."

“He knows of only one remotely comparable case in Canada, which happened almost 30 years ago, where a mining company that lost in court and, convinced the judge must have had a personal financial stake, hired a private eye.

- Christie Blatchford



The meeting with the unidentified figure from Catalyst never happened, and instead on Sept. 21, I met the woman alone at a midtown café.

There, she handed me a USB flash drive containing the photos of Newbould, audio and what appear to be edited transcripts of the two surreptitiously recorded conversations he had with Rodriguez at his office and Scaramouche.

She gave my number to the purported friend connected to the case, who texted a few days later to set up a meeting.

He is a former Israeli TV journalist and documentary filmmaker. We met on Oct. 20 at a diner in the east end of Toronto.

He said he was passing on the story because it would be of little interest to his audience in Israel. Plus, like the PR woman, he said he was doing a favour for someone close to the case. Also like the PR woman before him, he mentioned my unquestioned brilliance and experience as a reporter; flattery, however transparently and thickly ladled on, appears part of undercover tradecraft.

from that. The movers behind this, he said, were Aboriginals. When I pushed him on it, he said they were the same people who had complained about Newbould in the land claim controversy.

I knew that was ridiculous. That complaint had been brought by the Indigenous Bar Association, a professional group of lawyers unlikely to have done something like this. And their complaint was no longer a live issue as Newbould had resigned.

I told the journalist I couldn't continue unless I met one of the principals.

"You will meet the guy who is behind this project," he texted me on Oct. 26, but that soon changed to "Jessie from the operational team."

Jessie and I met on Oct. 31 in a restaurant at the Eaton Centre. An attractive woman with dark hair, who looked to be in her early 40s, Jessie said she was now doing this work after a career in an unnamed government's national security agency. She wouldn't give me her last name, was vague about where she lived, and gave me an email address that she didn't answer.

I paid the bill and left after about 30 minutes. My patience with wannabe spooks, mules and ghostly figures — and mostly, being lied to — was exhausted.

The lawyers for Catalyst and West Face met at the Court of Appeal on Sept. 25, a week after the sting on the judge.

Among them were two new faces: prominent Toronto lawyer Brian Greenspan and veteran litigator David Moore, both there for Catalyst.

They were seeking an adjournment to the appeal, which was slated to be heard the next day.

A two-page document filed with the court says Greenspan told Judge Paul Rouleau that on Sept. 21, "he was provided with information that requires immediate investigation and may well lead to the tendering of a fresh evidence application with impact on the appeal."

What the evidence is, he did not say. But on the 21st, Catalyst received its own USB flash drive with a transcript of Newbould and Rodriguez's conversations as well as the audio and photos.

According to the source authorized to speak for Catalyst, the company was weighing whether they had enough to dislodge the presumption of

Rouleau was also told that an “irreconcilable difference” between Catalyst and its lawyers, the Lax O’Sullivan Lisus Gottlieb firm, had arisen and that Lax O’Sullivan had “concluded it has no option but to seek to be removed as counsel of record.”

The “irreconcilable difference” was that once Lax O’Sullivan was told about what Black Cube had done, its lawyers made the decision it was “unethical conduct” and they wouldn’t be a part of it.

The lawyers demanded Catalyst sign an undertaking that it would never attempt to use in any way the information covertly obtained about Newbould.

But Catalyst wouldn’t make the decision then and there, and wanted time to weigh what it had learned.

In other words, according to the source’s account, Catalyst may not have ordered the attempted setup of the judge or even wanted it to happen, but now that it was done, the company had to evaluate the fruits of the sting to see if there was enough to bring an allegation of bias against Newbould.

Such is the ruthless pragmatism attached to big money and big power.

Rouleau reluctantly granted the adjournment and set new dates for February, ordering the lawyers to tell him if there was going to be a fresh evidence application as soon as possible. He later set a deadline of Dec. 1 for any such application.

According to the source authorized to speak for Catalyst, the company hired a security firm on Aug. 31 because of a variety of “security concerns.”

Among them, he said, was a belief that Catalyst had been cyber-hacked, evidence of trespassing and at least one break-in at the homes and cottages of its senior people and that their garbage was being picked through. And, said the source, some executives had received threats.

The company, he said, didn’t have sufficient evidence to go to Toronto Police, so took their concerns to the private firm instead.

The man was adamant that Catalyst never asked the main security company to set up a sting on Newbould, though he acknowledged that

collective Catalyst ire.

Such contracts, the source said, are invariably arranged through lawyers, so as to cloak the arrangement — and protect to a limited degree any information gleaned by security operatives — with solicitor-client privilege.

He said it's common in complex criminal matters and commercial crime cases with their enormous amounts of money at stake for parties to use private investigative firms with their covert methods.

The arrangement with Catalyst allowed the security firm to use other consultants and sub-contractors.

And it was the sub-contracted agency, Black Cube, that ran the sting on the former judge.

According to the source's account, when the firm found out on Sept. 21 what the sub-contractor had done, "damn right there was freaking out," he said.

At least one further sting run on a former West Face employee, he said, was the result of a miscommunication, following an attempt to call off such operations.

In an email Saturday, a Black Cube spokesman said: "It is Black Cube's policy to never discuss its clients with any third party and to never confirm or deny any speculation made with regards."

The company denied approaching any "journalist, lawyer, PR company or any other professional consultant with a view to publishing intelligence gathered."

In fact, the company had refused to make any on the record comment unless and until I submitted the story in advance of publication.

On Oct. 12, I met Newbould in a boardroom at the office of his lawyer, Brian Gover, and gave them the USB to copy.

I had briefed Gover on the phone, so they knew some of what was coming, but still appeared shaken.

Though the Catalyst source maintains no laws were broken in the sting, the operation raises larger ethical questions about how common it is for companies to hire private investigators, how often they use these sorts

“Think of the collateral damage caused by well-heeled litigants who will do anything, but will stop at nothing,” said Gover.

He knows of only one remotely comparable case in Canada, which happened almost 30 years ago, where a mining company that lost in court and, convinced the judge must have had a personal financial stake, hired a private eye to check him out.

Gavin MacKenzie, a Toronto litigator and leading authority on legal ethics, said the Newbould sting is shocking, and said he too was aware only of the one other case.

That case went all the way to the Supreme Court, but the investigation and surveillance of the judge never made it onto the record, though it was widely discussed in legal circles.

MacKenzie said lawyers will always “talk about a judge’s background and pre-dispositions and that sort of thing.”

In countries where judicial corruption is common, judges themselves often become targets. But Canada, he said, has “never had a judge on the take from a party.”

With a reputable and independent judiciary, MacKenzie said, talk is about as far as things get.

“It’s very rare and almost unnecessary to go beyond that.”

National Post

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This is Exhibit "F" in the Affidavit of Darryl Levitt
sworn February 20, 2019

A handwritten signature in black ink, appearing to read 'Anisah S. Hassan', written over a horizontal line.

Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSUC#: 65919L

Court File No. CV-17-586096

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL
CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.
C.O.B. ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,
FRIGATE VENTURES LP, ANSON INVESTMENTS LP, ANSON CAPITAL
LP, ANSON INVESTMENTS MASTER FUND LP, AIMF GP, ANSON
CATALYST MASTER FUND LP, ACF GP, MOEZ KASSAM, ADAM
SPEARS, SUNNY PURI, CLARITYSPRING INC., NATHAN ANDERSON,
BRUCE LANGSTAFF, ROB COPELAND, KEVIN BAUMANN, JEFFREY
MCFARLANE, DARRYL LEVITT, RICHARD MOLYNEUX and JOHN
DOES #1-10

Defendants

AFFIDAVIT OF VICTORIA KIKHARD

I, Victoria Kikhard, of the Hong Kong Special Administrative Region of the People's Republic of China, MAKE OATH AND SAY:

1. I am a former employee of West Face Capital Inc. ("**West Face**"). After leaving West Face in April 2016, I took on my current role as AIS Private Equity Investor Services Manager for State Street Fund Services (Hong Kong) Limited, in Hong Kong. While at West Face, my role was Investor Relations Associate. I had no involvement in West Face's acquisition of the Canadian telecommunications company WIND Mobile Inc. ("**WIND**") in September 2014 (the "**WIND Deal**"), and no previous involvement in any

disputes between West Face, The Catalyst Capital Group Inc. ("**Catalyst**"), or Callidus Capital Corporation ("**Callidus**").

2. I swear this Affidavit to describe interactions I have recently had with several people who told me that they were representatives of a recruitment company called Caesar & Co. I also refer in this Affidavit to discussions I have had with other employees of West Face. Where matters stated in this Affidavit are based on information provided to me by others, I have identified the source of that information and believe that information to be true.

A. Multiple Contacts from Caesar & Co in the Fall of 2017

3. In the period from September to November, 2017, I have been contacted multiple times by people who told me that they were representatives of a company called Caesar & Co, based out of the United Kingdom. Each of these people said to me that they were contacting me about a potential job opportunity, for purposes of recruitment. These discussions are described below. Caesar & Co approached me and made the first contact (I did not approach them).

4. I am advised by Philip Panet, General Counsel of West Face, and believe that other employees of West Face have similarly been approached by representatives of Caesar & Co. I have not spoken to any of these other employees before or during the process of preparing this Affidavit and I do not know what experiences they have had.

(i) September 18, 2017 Meeting with Maja Lazarov of Caesar & Co.

5. On September 18, 2017, I received a message on LinkedIn from a person who identified herself as Maja Lazarov ("**Maja**"). (The LinkedIn profile name of this person

currently states a different name: "mariana L". However, I am certain that when she reached out to me it stated: "Maja L." and had a photo of a young professional female with long blond or light brown hair. The image since has been taken down and name changed which strikes me as highly unusual. However, the content of her message is unchanged.). A screenshot of the LinkedIn message is attached as **Exhibit "A"** to my Affidavit.

6. In the message, Maja stated that she was a HR Executive at Caesar & Co., a global recruitment agency headquartered in London. She said that Caesar & Co. was currently representing a European private equity firm looking to branch out to Hong Kong and that, for that purpose, the European firm was looking for an IR (a common industry abbreviation for Investor Relations) Manager. Maja described the position briefly and claimed that my LinkedIn profile stood out in Caesar & Co.'s search for relevant professionals. She then expressed interest in scheduling a preliminary phone or Skype conversation in order to discuss the opportunity further.

(ii) September 19, 2017 call with Lara Fuentes of Caesar & Co.

7. I agreed to Maja's request for a call and was then told that someone else at Caesar & Co., a Lara Fuentes ("**Lara**"), would have to fill in for Maja. The next day, I had a call with Lara. Lara said to me that Caesar & Co. was a very exclusive recruiting firm specializing in executive search. On our brief phone call, I spoke to her on a high level without getting into many details about my current and prior professional experience. Lara then suggested that I was perfect for the job that she was recruiting for. She also told me that she could not disclose the name of the client yet and that the next step in the interview process would be to have a senior recruiter call me for another interview. Lara

repeated that, as Maja had indicated prior, the client was a large private equity firm from the United Kingdom looking to open an office in Hong Kong. She added that the client was looking for someone to head the regional investor relations function to deal with existing investors, who the client hoped would become investors in new Asian funds that the client was looking to launch. As an explanation, Lara said that the client did not want its competitors to know for now about their plans to open an office and more details would follow after I signed a non-disclosure agreement.

8. In response to a question about my departure from the former employer, I told Lara that West Face was the best company that I had ever worked for, and that the reasons for my resignation were personal. I had wanted to escape the brutal Canadian winters and thought that Hong Kong offered better career growth opportunities.

9. I do not recall any other specific discussion or questions about West Face on the initial call with Lara. After our call, I thanked Lara for our call and provided her with my updated resume as discussed on our call. On September 27, 2017 Lara emailed me again for the purpose of arranging the next call with the senior recruiter from her firm. She also requested that I complete a personality questionnaire that she attached, and stated that she would confirm the time of my call after I had sent the completed questionnaire back to her. I responded back to her the same day with the completed questionnaire and requested to postpone the call until Thursday October 5, 2017.

(iii) Call with Alexandra Popovic of Caesar & Co. on October 5, 2017

10. On October 5, 2017, I received a call from Alexandra Popovic ("**Alexandra**"). Alexandra identified herself as a senior recruiter for Caesar & Co. Most of the call

contained standard interview questions, with one exception: Alexandra insisted on questioning me about the legal proceedings between West Face, Catalyst and Callidus. She framed these questions as trying to see how I deal with difficult situations. I told Alexandra that the cases against West Face were without merit and the claims unsubstantiated. I also repeated to her that (as I had previously told Lara), West Face was the best company that I had ever worked for, but I had been interested in moving to Hong Kong both for better professional growth opportunities and to escape the winter.

(iv) Arrangements to Meet in London Made by Caesar & Co.

11. On October 9, 2017, Alexandra emailed me to follow up on our call. This email is attached as **Exhibit "B"** to my Affidavit. Alexandra said that she was very impressed and that Caesar & Co. wanted to move forward with the recruitment process. She asked me to provide dates for when I could fly to the UK for a personal meeting. Alexandra also copied Lara, saying that Lara would take care of the travel arrangements and provide a list of questions, simulations and a conflict check list.

12. After this email, I did not hear again from the person identifying herself as Alexandra, and I never met this person. I did, however, meet and correspond with Lara, and I also met and corresponded with someone who she introduced as a client of Caesar & Co. (as set out below).

13. I responded to Alexandra's email the same day, thanking Alexandra for her response, providing my available dates for an interview, and asking some questions about the process. (This correspondence is attached as **Exhibit "C"** to my Affidavit).

14. On October 10, 2017, Lara emailed me and sent a conflict check form. A copy of the email sending the form is included in **Exhibit "C"** to my Affidavit, previously attached. A copy of this form is attached as **Exhibit "D"** to my Affidavit. Lara's email signature identified her as "Vice President of Talent Acquisition" for Caesar & Co. The conflict check form attached to the email asked me to indicate whether I (or any close relatives) were employed by, involved in a legal case against, had a working relationship with, or had a working relationship with senior executives of a number of companies. I responded the next day, to send the completed conflict check form and advised that, to my knowledge, there were no conflicts of interest.

15. In the period from October 16 to November 2, 2017, Lara and I corresponded by email to make arrangements for a meeting in person, in London, United Kingdom. (The email attaching the travel documents, and others in the same chain, are attached as **Exhibit "E1"** to my Affidavit. The documents relating to travel arrangements provided by Lara, including an itinerary and travel vouchers, are attached as **Exhibits "E2", "E3" and "E4"** to my Affidavit.). Lara arranged for the travel arrangements from Hong Kong to London and Caesar & Co. paid for all travel arrangements, except that I asked to stay an extra night at my own expense to enjoy the city. My request to have an additional day in the city at my own expense was declined, and the travel times slightly modified, with the result that I incurred no accommodation expense personally. In making the arrangements, Lara indicated that it was important to them to have me there for a full work day for two meetings.

(v) **Meetings with Lara and Daniel Solokov in London on November 6, 2017**

16. As well as making travel and hotel arrangements, Lara set up arrangements for two meetings in London with me, both of which took place on November 6, 2017. The first meeting was with Lara and the second meeting was with both Lara and a man who she identified as Daniel Solokov ("**Daniel**"), her client. At both meetings, Lara or Daniel raised West Face.

17. The first meeting on November 6, 2017 with Lara was at 12:00 p.m. At Lara's request, we met in the lobby of the Bulgari Hotel. Lara was a short woman (I would estimate 5'1" tall) and overweight. I would estimate that she is in her late 30s or early 40s. She had light coloured eyes and a short bob cut with blond highlights. She told me that she was from Argentina and that she had three children.

18. During our meeting, Lara told me that the purpose of our meeting was that she could better prepare me to interview with the client. She had me fill out a personality questionnaire, answer a few questions from the client and tell her about myself. Lara also said that, in my interview with the client, I should focus on my experience at West Face, since it was the most relevant.

19. The second meeting on November 6, 2017 with Lara and Daniel was at 4:00 p.m., also at the Bulgari Hotel. Daniel struck me as an ordinary looking person with what appeared to be a Russian accent. I would estimate that he was in his early 50s.

20. Daniel spoke about the job and about me. He told me that I would be managing a team of IR juniors and asked me personality questions and about what kind of manager I

am. He also mentioned that his company deals with Russian billionaires who need a lot of special attention. He asked if I had ever had to deal with anything shady (or words to that effect) at work, and whether I had ever had to go against the law or do anything that I was uncomfortable with at work. I told Daniel that I had absolutely not had to deal with anything suspicious, go against the rules or do anything that I was uncomfortable with while at West Face. I added that I had a great relationship with West Face and visited people from West Face when I was in Toronto.

21. Daniel also raised the litigation between West Face, Catalyst and Callidus. I recall that this came up briefly and at a high level. My knowledge is limited with regard to the extent of legal proceedings currently outstanding between the parties involved, and I recall simply dismissing the topic by stating that I am sure that there is no merit to the claims.

22. After the meeting with Daniel and Lara, they invited me to dinner. We went to dinner at the restaurant in the Bulgari Hotel at 7:30. In general, the dinner was very casual. We talked about social topics like children, weather and Hong Kong. However, there was one red flag: Daniel again mentioned that he had to deal with Russian billionaires and how needy they are. I could not believe that after four interviews I still did not know the name of the private equity firm I was supposedly interviewing for, at which point, I started to associate the overly secretive nature of my interviews with a potential money laundering scheme. However, I decided that I would be very cautious, but would nevertheless proceed with the process out of curiosity since I had already flown all the way to London. Something else that struck me as being odd was the fact that even though I mentioned that I was a Ukrainian-born Canadian, Daniel never asked me if I spoke

Russian (most Ukrainians speak Russian). I thought that it would be a logical question to have been asked if one of the sensitive topics was supposedly servicing Russian clients, and language skills are almost always considered useful if suitable for the audience.

23. After dinner, Daniel or Lara told me that they would be in touch after they finished interviewing other candidates.

(vi) Follow Up From Meeting and End of My Contact with Caesar & Co

24. On November 8, 2017, I wrote follow up emails to Lara and Daniel to thank them, tell them that it was a pleasure to meet them, and tell them that I looked forward to hearing back from them. In the email to Daniel, I also set out reasons why I believed that we would have an excellent working relationship. Attached as **Exhibit "F"** to my Affidavit is an email chain including my email of November 8, 2017 to Lara. My email of November 8, 2017 to Daniel, and the ensuing email thread between myself and Daniel, is attached as **Exhibit "G"** to my Affidavit.

25. Lara responded to my follow-up email on November 10, 2017. (This email is included in **Exhibit "F"** to my Affidavit). She told me that they were going to have meetings with the rest of the candidates over the next couple of weeks and that she would update me at the end of this stage of the process. This was the last time that I heard from Lara before swearing this Affidavit.

26. Daniel also responded to my email on November 10, 2017. (This email is included in **Exhibit "G"** to my Affidavit). He told me that the process was currently in candidate interviews, which should be done at the end of November, and that he would update me

at the beginning of December. This was the last time that I heard from Daniel before swearing this Affidavit.

B. My Discussions with West Face About Caesar & Co

27. On or around November 11, 2017, I spoke to a former colleague at West Face. I told her that I had been flown to London for an interview with a firm looking to set up shop in Hong Kong and that the firm was called Caesar & Co. I also told my former colleague some high level details about my discussions and meetings with Caesar & Co.

28. The same day, on November 11, 2017, I spoke by telephone with Philip Panet ("**Philip**"), General Counsel for West Face. I know him from my time at West Face and we have stayed in touch since. Philip told me that my former colleague had spoken to him about our conversation. He then told me that Maja, Lara, Alexandra and Daniel were in all likelihood not who they said they were, and that there was no real Caesar & Co. recruiting company. Rather, Maja, Lara, Alexandra and Daniel are almost certainly affiliated with Black Cube, an Israeli intelligence firm which has been identified by the media as having been hired by Harvey Weinstein to investigate women who had accused him of sexual harassment.

C. The Effect of the Above Events on Me

29. When I learned that I may have participated in a fake interview process, I was distraught to have been made a fool of. As well, I was disappointed that I wasted vacation days on an illegitimate process and that it took me the rest of the week after the trip to London to recover from the change in time zones. I was also frankly frightened to have been flown halfway around the world by a firm of former Israeli intelligence operatives on

false pretences. It has made me worried for my personal security and privacy as I have no way of knowing what other measures Black Cube operatives may have taken with respect to me. Particularly, when preparing this statement and trying to obtain records for my calls with Lara and Alexandra, I have come to realize that all records of my telephone conversations with them have disappeared from my phone. I find it extremely suspicious and worry that they somehow have access to my phone currently and can use it to harm me.

SWORN BEFORE ME at the Hong Kong
Special Administrative Region of the
People's Republic of China, this 16th
day of November, 2017...

Commissioner for Taking Affidavits
(or as may be)

Victoria Kikhard


VICTORIA KIKHARD

SO CHE WING REX
Notary Public,
Hong Kong SAR

Suite 2001-3, St. George's Building
2 Ice House Street, Central
Hong Kong



This is Exhibit "G" in the Affidavit of Darryl Levitt
sworn February 20, 2019



Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSUC#: 65919L

Undercover agents target Toronto-based cybersecurity watchdog Citizen Lab, which reported key details in Khashoggi case

RAPHAEL SATTER

NEW YORK

THE ASSOCIATED PRESS

PUBLISHED JANUARY 25, 2019

15 COMMENTS

The researchers who reported that Israeli software was used to spy on Washington Post journalist Jamal Khashoggi's inner circle before his gruesome death are being targeted in turn by international undercover operatives, The Associated Press has found.

Twice in the past two months, men masquerading as socially conscious investors have lured members of the Citizen Lab internet watchdog group to meetings at luxury hotels to quiz them for hours about their work exposing Israeli surveillance and the details of their personal lives. In both cases, the researchers believe they were secretly recorded.

Citizen Lab Director Ron Deibert described the stunts as "a new low."

"We condemn these sinister, underhanded activities in the strongest possible terms," he said in a statement Friday. "Such a deceitful attack on an academic group like the Citizen Lab is an attack on academic freedom everywhere."

Who these operatives are working for remains a riddle, but their tactics recall those of private investigators who assume elaborate false identities to gather intelligence or compromising material on critics of powerful figures in government or business.

Citizen Lab, based out of the Munk School of Global Affairs at the University of Toronto, has for years played a leading role in exposing state-backed hackers operating in places as far afield as Tibet, Ethiopia and Syria. Lately the group has drawn attention for its repeated exposes of an Israeli surveillance software vendor called the NSO Group, a firm whose wares have been used by governments to target journalists in Mexico, opposition figures in Panama and human rights activists in the Middle East.

In October, Citizen Lab reported that an iPhone belonging to one of Khashoggi's confidantes had been infected by the NSO's signature spy software only months before Khashoggi's grisly killing. The friend, Saudi dissident Omar Abdulaziz, would later claim that the hacking had exposed Khashoggi's private criticisms of the Saudi royal family to the Arab kingdom's spies and thus "played a major role" in his death.

In a statement, NSO denied having anything to do with the undercover operations targeting Citizen Lab, "either directly or indirectly" and said it had neither hired nor asked anyone to hire private investigators to pursue the Canadian organization. "Any suggestion to the contrary is factually incorrect and nothing more than baseless speculation," NSO said.

NSO has long denied that its software was used to target Khashoggi, although it has refused to comment when asked whether it has sold its software to the Saudi government more generally.



In this image from video, a man who identified himself as Michel Lambert, a director at the Paris-based agricultural technology firm CPW-Consulting, reacts during an interview at a restaurant in New York on Jan. 24, 2019. Lambert is allegedly one of two undercover operatives.

THE CANADIAN PRESS

The first message reached Bahr Abdul Razzak, a Syrian refugee who works as a Citizen Lab researcher, Dec. 6, when a man calling himself Gary Bowman got in touch via LinkedIn. The man described himself as a South African financial technology executive based in Madrid.

"I came across your profile and think that the work you've done helping Syrian refugees and your extensive technical background could be a great fit for our new initiative," Bowman wrote.

Abdul Razzak said he thought the proposal was a bit odd, but he eventually agreed to meet the man at Toronto's swanky Shangri-La Hotel on the morning of Dec. 18.

The conversation got weird very quickly, Abdul Razzak said.

Instead of talking about refugees, Abdul Razzak said, Bowman grilled him about his work for Citizen Lab and its investigations into the use of NSO's software. Abdul Razzak said Bowman appeared to be reading off cue cards, asking him if he was earning enough money and throwing out pointed questions about Israel, the war in Syria and Abdul Razzak's religiosity.

"Do you pray?" Abdul Razzak recalled Bowman asking. "Why do you write only about NSO?" "Do you write about it because it's an Israeli company?" "Do you hate Israel?"

Abdul Razzak said he emerged from the meeting feeling shaken. He alerted his Citizen Lab colleagues, who quickly determined that the breakfast get-together had been a ruse.

Bowman's supposed Madrid-based company, FlameTech, had no web presence beyond a LinkedIn page, a handful of social media profiles and an entry in the business information platform Crunchbase. A reverse image search revealed that the profile picture of the man listed as FlameTech's chief executive, Mauricio Alonso, was a stock photograph.

"My immediate gut feeling was: 'This is a fake,'" said John Scott-Railton, one of Abdul Razzak's colleagues.

Scott-Railton flagged the incident to the AP, which confirmed that FlameTech was a digital facade.

Searches of the Orbis database of corporate records, which has data on some 300 million global companies, turned up no evidence of a Spanish firm called FlameTech or Flame Tech or any company anywhere in the world matching its description. Similarly, the AP found no record of FlameTech in Madrid's official registry or of a Gary Bowman in the city's telephone listings. An Orbis search for Alonso, the supposed chief executive, also drew a blank. When an

AP reporter visited Madrid's Crystal Tower high-rise, where FlameTech claimed to have 250,074 sq. meters (2,700 sq. feet) of office space, he could find no trace of the firm and calls to the number listed on its website went unanswered.

The AP was about to publish a story about the curious company when, on Jan. 9, Scott-Railton received an intriguing message of his own.

This time the contact came not from Bowman of FlameTech but from someone who identified himself as Michel Lambert, a director at the Paris-based agricultural technology firm CPW-Consulting.

Lambert had done his homework. In his introductory email, he referred to Scott-Railton's early doctoral research on kite aerial photography — a mapping technique using kite-mounted cameras — and said he was “quite impressed.”

“We have a few projects and clients coming up that could significantly benefit from implementing Kite Aerial Photography,” he said.

Like FlameTech, CPW-Consulting was a fiction. Searches of Orbis and the French commercial court registry Infogreffe turned up no trace of the supposedly Paris-based company or indeed of any Paris-based company bearing the acronym CPW. And when the AP visited CPW's alleged office there was no evidence of the company; the address was home to a mainly residential apartment building. Residents and the building's caretaker said they had never heard of the firm.

Whoever dreamed up CPW had taken steps to ensure the illusion survived a casual web search, but even those efforts didn't bear much scrutiny. The company had issued a help wanted ad, for example, seeking a digital mapping specialist for their Paris office, but Scott-Railton discovered that the language had been lifted almost word-for-word from an ad from an unrelated company seeking a mapping specialist in London. A blog post touted CPW as a major player in Africa, but an examination of the author's profile suggests the article was the only one the blogger had ever written.

When Lambert suggested an in-person meeting in New York during a Jan. 19 phone call, Scott-Railton felt certain that Lambert was trying to set him up.

But Scott-Railton agreed to the meeting. He planned to lay a trap of his own.

Anyone watching Scott-Railton and Lambert laughing over wagyu beef and lobster bisque at the Peninsula Hotel's upscale restaurant on Thursday afternoon might have mistaken the pair for friends.

In fact, the lunch was Spy vs. Spy. Scott-Railton had spent the night before trying to secret a homemade camera into his tie, he later told AP, eventually settling for a GoPro action camera and several recording devices hidden about his person. On the table, Lambert had placed a large pen in which Scott-Railton said he spotted a tiny camera lens peeking out from an opening in the top.

Lambert didn't seem to be alone. At the beginning of the meal, a man sat behind him, holding up his phone as if to take pictures and then abruptly left the restaurant, having eaten nothing. Later, two or three men materialized at the bar and appeared to be monitoring proceedings.

Scott-Railton wasn't alone either. A few tables away, two Associated Press journalists were making small talk as they waited for a signal from Scott-Railton, who had invited the reporters to observe the lunch from nearby and then interview Lambert near the end of the meal.

The conversation began with a discussion of kites, gossip about African politicians, and a detour through Scott-Railton's family background. But Lambert, just like Bowman, eventually steered the talk to Citizen Lab and NSO.

"Work drama? Tell me, I like drama!" Lambert said at one point, according to Scott-Railton's recording of the conversation. "Is there a big competition between the people inside Citizen Lab?" he asked later.

Like Bowman, Lambert appeared to be working off cue cards and occasionally made awkward conversational gambits. At one point he repeated a racist French expression, insisting it wasn't offensive. He also asked Scott-Railton questions about the Holocaust, anti-Semitism and whether he grew up with any Jewish friends. At another point he asked whether there might not be a "racist element" to Citizen Lab's interest in Israeli spyware.

After dessert arrived, the AP reporters approached Lambert at his table and asked him why his company didn't seem to exist.

He seemed to stiffen.

"I know what I'm doing," Lambert said, as he put his files — and his pen — into a bag. Then he stood up, bumped into a chair and walked off, saying "Ciao" and waving his hand, before

returning because he had neglected to pay the bill.

As he paced around the restaurant waiting for the check, Lambert refused to answer questions who he worked for or why no trace of his firm could be found.

“I don’t have to give you any explanation,” he said. He eventually retreated to a back room and closed the door.

Who Lambert and Bowman really are isn’t clear. Neither men returned emails, LinkedIn messages or phone calls. And despite their keen focus on NSO the AP has found no evidence of any link to the Israeli spyware merchant, which is adamant that it wasn’t involved.

The kind of aggressive investigative tactics used by the mystery men who targeted Citizen Lab have come under fire in the wake of the Harvey Weinstein sexual abuse scandal. Black Cube, an Israeli private investigation firm apologized after The New Yorker and other media outlets revealed that the company’s operatives had used subterfuge and dirty tricks to help the Hollywood mogul suppress allegations of rape and sexual assault.

Scott-Railton and Abdul Razzak said they didn’t want to speculate about who was involved. But both said they believed they were being steered toward making controversial comments that could be used to blacken Citizen Lab’s reputation.

“It could be they wanted me to say, ‘Yes, I hate Israel,’ or ‘Yes, Citizen Lab is against NSO because it’s Israeli,’” said Abdul Razzak.

Scott-Railton said the elaborate, multinational operation was gratifying, in a way.

“People were paid to fly to a city to sit you down to an expensive meal and try to convince you to say bad things about your work, your colleagues and your employer,” he said.

“That means that your work is important.”

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351 King Street East, Suite 1600, Toronto, ON Canada, M5A 0N1

Phillip Crawley, Publisher

This is Exhibit "H" in the Affidavit of Darryl Levitt
sworn February 20, 2019

A handwritten signature in black ink, appearing to read 'Anisah Hassan', written over a horizontal line.

Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSUC#: G5919L

From: **Helena Weiss** h.weiss@kweconsulting.com
Subject: Mr. Levitt - Potential Consultancy Collaboration
Date: October 2, 2017 at 5:07 AM
To: darryl.levitt@gmail.com

HW

Dear Mr. Levitt,

My name is Helena Weiss and I am the PA to Mr. Petrov. Mr. Petrov is a Senior Partner at KWE Consulting. KWE advises C Level executives and boards of directors on proper design and management of business strategy in the firm, to maximize revenue and corporate effectiveness.

I am approaching you on behalf of our client, which is following up on our recommendation and considers investing in the Canadian energy and mining sector. To better facilitate the investment we feel there is need for an expert's advice and would appreciate scheduling a short meeting with you to better understand your abilities and explore your potential fit to our need.

Should you be interested, I kindly ask to provide me the dates for a meeting in Toronto during the week of 9th or the week of the 16th

Best,
Helena

--



Helena Weiss / Personal Assistant
h.weiss@kweconsulting.com

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Commissioner for Taking Affidavits
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Anisah S. Hassan
LSUC#: 65919L

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One of our clients is a European private equity mainly dealing with long-term energy and mining investments in EMEA. Based on our and our client's preliminary research, the Canadian energy sector is going for a full recovery.

To explore this potential, Mr. Petrov, one of KWE's Partners is travelling Canada next week to meet both financial and market research SME's as well as some PE's and legal advisers who have hands-on investment, legal and regulatory experience in the energy sector.

As I mentioned earlier today, I would very much appreciate to coordinate an evening meeting with you on Tuesday the 10th.

Best regards,
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Hi Helena

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Thanks and kind regards
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 To: Darryl L darryl.levitt@gmail.com
 Subject: Re: Mr. Levitt - Potential Consultancy Collaboration

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Best,
Helena

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From: **Helena Weiss** h.weiss@kweconsulting.com
 Subject: Re: Mr. Levitt - Potential Consultancy Collaboration
 Date: October 9, 2017 at 10:44 AM
 To: Darryl L darryl.levitt@gmail.com

HW

Dear Darryl,

Mr. Petrov suggests you meet as scheduled on the 11th of October at 10:00 AM, at ONE restaurant, Hazelton hotel 116 Yorkville Avenue, Toronto, ON M5R 1C2.

In addition it would be helpful if you could provide your mobile phone number as it might be needed.

Best,
 Helena

On Thu, Oct 5, 2017 at 7:37 PM, Darryl L <darryl.levitt@gmail.com> wrote:
 That works. Thanks Helena.

Regards
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CONSULTING

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From: **Helena Weiss** h.weiss@kweconsulting.com 
 Subject: Re: Mr. Levitt - Potential Consultancy Collaboration
 Date: October 10, 2017 at 8:23 AM
 To: Darryl Levitt darryl.levitt@gmail.com

HW

Dear Darryl,

Mr. Petrov's given name is Victor, Mr. Petrov is a partner of KWE consulting.

As for the company, KWE is a boutique consultancy providing services to top management and directors from a large spectrum of industries. Particularly strategic development and investments management. The company's main expertise is evaluating investment risks and recognizing investment opportunities.

Hope I was of help.

Best,
 Helena

On Tue, Oct 10, 2017 at 6:12 AM, Darryl Levitt <darryl.levitt@gmail.com> wrote:

Thank you Helena

Could you please provide some further details of Mr Petrov? What is his first name and his company so that I have some more background details.

Regard
 Darryl

On Oct 9, 2017, at 10:44 AM, Helena Weiss <h.weiss@kweconsulting.com> wrote:

Dear Darryl,

Mr. Petrov suggests you meet as scheduled on the 11th of October at 10:00 AM, at ONE restaurant, Hazelton hotel 116 Yorkville Avenue, Toronto, ON M5R 1C2.

In addition it would be helpful if you could provide your mobile phone number as it might be needed.

Best,
 Helena

On Thu, Oct 5, 2017 at 7:37 PM, Darryl L <darryl.levitt@gmail.com> wrote:

That works. Thanks Helena.

Regards
 Darryl

On Oct 5, 2017, at 2:28 PM, Helena Weiss <h.weiss@kweconsulting.com> wrote:

Hi Darryl,

Let's pencil the morning of the 11th, will 10 AM work for you?

Best,
 Helena

On Thursday, October 5, 2017, Darryl L <darryl.levitt@gmail.com> wrote:

Hi Helena

Thanks for the background. Evenings are always more challenging because I lecture often. My suggestion is to find a time that works in the mornings. I will make myself available. Please send me a few times that work.

Regards
 Darryl

On Oct 5, 2017, at 11:13 AM, Helena Weiss <h.weiss@kweconsulting.com> wrote:

Dear Mr. Levitt,

I am certain Mr. Petrov could elaborate more about the timeline and goals in your meeting.

KWE is a boutique consultancy providing professional advice to top management and company directors across

KWE is a boutique consultancy providing professional advice to top management and company directors, across industries and sectors. The partners' main expertise is recognizing investment opportunities and evaluating investment risks.

One of our clients is a European private equity mainly dealing with long-term energy and mining investments in EMEA. Based on our and our client's preliminary research, the Canadian energy sector is going for a full recovery.

To explore this potential, Mr. Petrov, one of KWE's Partners is travelling Canada next week to meet both financial and market research SME's as well as some PE's and legal advisers who have hands-on investment, legal and regulatory experience in the energy sector.

As I mentioned earlier today, I would very much appreciate to coordinate an evening meeting with you on Tuesday the 10th.

Best regards,
Helena

On Thu, Oct 5, 2017 at 7:15 PM, darryl.levitt <darryl.levitt@gmail.com> wrote:
Hi Helena

Could you please provide me with a little bit more background on the potential client so that I have a fuller understanding of what Mr Petrov is seeking?

Thanks and kind regards
Darryl

----- Original message -----

From: Helena Weiss <h.weiss@kweconsulting.com>
Date: 2017-10-05 5:13 AM (GMT-05:00)
To: Darryl L <darryl.levitt@gmail.com>
Subject: Re: Mr. Levitt - Potential Consultancy Collaboration

Dear Mr. Levitt,

Mr. Petrov's mornings are a bit hectic, but I will make an effort to open the morning of the 11th.

Due to your tight schedule, we can also move to the later evening of the 10th, at 1930 or so, should that be more convenient?

Best,
Helena

On Wed, Oct 4, 2017 at 4:21 PM, Darryl L <darryl.levitt@gmail.com> wrote:
Hi Helena

Dinner on the 11th won't work but I can meet with your client in the morning.

Kind regards
Darryl

On Oct 4, 2017, at 4:17 AM, Helena Weiss <h.weiss@kweconsulting.com> wrote:

Dear Mr. Levitt,

In regards to my previous Email,

My apologies for the swift change, but will it be possible to change the schedule for the 11th at the same time?

Best,
Helena

On Tue, Oct 3, 2017 at 5:28 AM, Helena Weiss <h.weiss@kweconsulting.com> wrote:
Dear Mr. Levitt,

Thank you for your prompt reply.

Can we pencil in a dinner meeting for 18:30 PM on Tuesday, October 10th?

Best,
Helena

On Mon, Oct 2, 2017 at 4:19 PM, Darryl L <darryl.levitt@gmail.com> wrote:
Hi Helena

Thank you very much for your email.

I would be happy to assist and will be in Toronto those weeks.

Does the 10th or 12th work for a meeting?

Regards,
Darryl Levitt

On Oct 2, 2017, at 5:07 AM, Helena Weiss <h.weiss@kweconsulting.com> wrote:

Dear Mr. Levitt,

My name is Helena Weiss and I am the PA to Mr. Petrov. Mr. Petrov is a Senior Partner at KWE Consulting. KWE advises C Level executives and boards of directors on proper design and management of business strategy in the firm, to maximize revenue and corporate effectiveness.

I am approaching you on behalf of our client, which is following up on our recommendation and considers investing in the Canadian energy and mining sector. To better facilitate the investment we feel there is need for an expert's advice and would appreciate scheduling a short meeting with you to better understand your abilities and explore your potential fit to our need.

Should you be interested, I kindly ask to provide me the dates for a meeting in Toronto during the week of 9th or the week of the 16th

Best,
Helena

--



Helena Weiss / Personal Assistant
h.weiss@kweconsulting.com

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This is Exhibit "J" in the Affidavit of Darryl Levitt
sworn February 20, 2019



Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSUC#: 65919L

From: Jennifer Ann Belanger <jennifer@onehazelton.com>
Date: February 19, 2019 at 8:29:43 AM EST
To: darryl@dlevittassociates.com
Cc: Tim Salmon <tim@onehazelton.com>, Hani Roustom <hroustom@thehazeltonhotel.com>, Michael Tadros <mtadros@thehazeltonhotel.com>, Lucky Rathnasekara <lucky@onehazelton.com>, "Julian L. Doyle" <jdoyle@beardwinter.com>, Kip Aneja <kip@mcewanfoods.com>, Ferry Shafaghi <ferry@mcewangroup.ca>
Subject: RE: Court Motion for preservation and production of video footage

Good morning Mr Levitt,

In response to your email in February 19th 2019 to confirm that we have preserved footage; I can confirm that we have kept it on file.

Regards,

Jennifer Belanger
General Manager

ONE Restaurant
116 Yorkville Avenue
Toronto, Ontario
M5R1H5
416.961.9600

<http://one.mcewangroup.ca/>

This is Exhibit "K" in the Affidavit of Darryl Levitt
sworn February 20, 2019

A handwritten signature in black ink, appearing to read 'Anish S. Haasan', written over a horizontal line.

Commissioner for Taking Affidavits
(or as may be)

Anish S. Haasan
LSUC#: 659191

From: Pearce Jarvis <pjarvis@beardwinter.com>
Date: February 19, 2019 at 3:04:17 PM EST
To: 'darryl Levitt' <darryl@dlevittassociates.com>
Subject: RE: One Footage

Good Afternoon Darryl,

As I mentioned we do not intend to oppose your motion if the attached terms are included in your Order. They were drafted to both provide you with the productions you are seeking in your notice of motion, as well as protect other parties from any ill effects that such production could bring about.

Please let me know if you have any questions or would like to discuss.

Regards,
Pearce

Pearce Jarvis | Lawyer


pjarvis@beardwinter.com

Direct Line: 416.306.1716 | Direct Fax: 416.593.7760

1. THIS COURT ORDERS that a copy of the video recording (the “One Recording”) of the dining room, taken on October 11, 2017 at the premises of One Restaurant, 116 Yorkville Avenue, Toronto, Ontario, between the hours of 9:00 am to 11:30 am, which One Recording is in the possession and control of McEwan Enterprises Inc. shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant’s expense in native format preserving all metadata;
2. THIS COURT ORDERS that a copy of all records of meal payment receipts generated by McEwan Enterprises Inc. and/or its employees for One Restaurant during the times of 9:00 a.m. and 11:30 a.m. on October 11, 2017 shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant’s expense;
3. THIS COURT ORDERS that a copy of any reports and/or notes, generated by McEwan Enterprises Inc. and/or its employees in connection with its meetings and consultations with the Moving Defendant shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant’s expense;
4. THIS COURT ORDERS that a copy of any notes and correspondence between hotel security and restaurant management in relation to the identification and preservation of the One Recording and related material, shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant’s expense;
5. THIS COURT ORDERS that all disclosure and production pursuant to this Order be made by McEwan Enterprises Inc. to the Moving Defendant within twenty (20) days of this Order;
6. THIS COURT ORDERS that no party to this action may make physical or digital copies of the One Recording, or make the One Recording available or accessible to the general public, except as required pursuant to the *Rules of Civil Procedure* and for backup and file storage purposes;
7. THIS COURT ORDERS that upon final resolution of the within action, whether by way of settlement or judgment, that all physical and/or digital copies of the One Recording and all other production by McEwan Enterprises Inc. pursuant to this Order shall be destroyed at each

parties' expense, and such destruction will be confirmed in writing to McEwan Enterprises Inc. by the Moving Defendant.

This is Exhibit "L" in the Affidavit of Darryl Levitt
sworn February 20, 2019



Commissioner for Taking Affidavits
(or as may be)

Anisah S. Hassan
LSJOC/E: 65919L

From: Pearce Jarvis <pjarvis@beardwinter.com>
Date: February 20, 2019 at 8:04:16 AM EST
To: 'darryl Levitt' <darryl@dlevittassociates.com>
Subject: RE: One Footage

Good Morning Mr. Levitt,

My apologies, but we received new instruction late last night from our client. We thought we had approval from the necessary client parties, however, we've been advised the terms may have to pass through another few of our client's channels for approval. That said, we don't expect the terms to change, or if they do, very slightly.

Sorry for the miscommunication, but as I mentioned yesterday we still do not intend to oppose the motion and the terms as sent yesterday are likely to be approved.

I will provide a further update soon – likely Monday.

Let me know if you have any questions.

Regards,
Pearce

Pearce Jarvis | Lawyer

pjarvis@beardwinter.com

Direct Line: 416.306.1716 | Direct Fax: 416.593.7760



From: darryl Levitt [<mailto:darryl@dlevittassociates.com>]
Sent: February-19-19 12:54 PM
To: Pearce Jarvis
Subject: Re: One Footage

Thank you very much Pearce.

Regards,
Darryl

On Feb 19, 2019, at 9:26 AM, Pearce Jarvis <pjarvis@beardwinter.com> wrote:

Mr. Levitt,

We are counsel to One Restaurant. We don't expect to oppose the motion subject to a few terms in the Order. I am tied up in a discovery today but will email you later today.

Regards,

Pearce

Pearce Jarvis | Lawyer

pjarvis@beardwinter.com

Direct Line: 416.306.1716 | Direct Fax: 416.593.7760

[<image61245e.GIF>](#)

BEARD WINTER LLP | LAWYERS

130 Adelaide Street West, 7th Floor

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Court File No. CV-17-587463-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE) DAY OF , 2019

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL
CORPORATION

Plaintiffs

– and –

WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.
C.O.B. ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,
FRIGATE VENTURES LP, ANSON INVESTMENTS LP, ANSON CAPITAL
LP, ANSON INVESTMENTS MASTER FUND LP, AIMF GP, ANSON
CATALYST MASTER FUND LP, ACF GP, MOEZ KASSAM, ADAM
SPEARS, SUNNY PURI, CLARITYSPRING INC., NATHAN ANDERSON,
BRUCE LANGSTAFF, ROB COPELAND, KEVIN BAUMANN, JEFFREY
MCFARLANE, DARRYL LEVITT, RICHARD MOLYNEUX AND JOHN

DOES #1-10

Defendants

– and –

CANACCORD GENUITY CORP.

Third Party

AND BETWEEN

WEST FACE CAPITAL INC. and GREGORY BOLAND

Plaintiffs by Counterclaim

– and –

THE CATALYST CAPITAL GROUP INC., CALLIDUS CAPITAL CORPORATION,
NEWTON GLASSMAN, GABRIEL DE ALBA, JAMES RILEY, VIRGINIA JAMIESON,
EMMANUEL ROSEN, B.C. STRATEGY LTD. D/B/A BLACK CUBE, B.C. STRATEGY UK
LTD. D/B/A BLACK CUBE and INVOP LTD. D/B/A PSY GROUP

Defendants to the Counterclaim

ORDER

THIS MOTION made by the defendant Darryl Levitt, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record and the Affidavit of Darryl Levitt sworn February 20, 2019 and on hearing submissions from the moving party, the third-party respondents having been duly served with the Motion Record but not appearing at the hearing of the motion,

1. THIS COURT ORDERS that a copy of the video recording (the “One Recording”) of the dining room, taken on October 11, 2017 at the premises of One Restaurant, 116 Yorkville Avenue, Toronto, Ontario, between the hours of 9:00 am to 11:30 am, which One Recording is in the possession and control of McEwan Enterprises Inc. shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant’s expense in native format preserving all metadata;
2. THIS COURT ORDERS that a copy of all records of meal payment receipts generated by McEwan Enterprises Inc. and/or its employees for One Restaurant during the times of 9:00 a.m. and 11:30 a.m. on October 11, 2017 shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant’s expense;
3. THIS COURT ORDERS that a copy of any reports and/or notes, generated by McEwan Enterprises Inc. and/or its employees in connection with its meetings and consultations with the Moving Defendant shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant’s expense;
4. THIS COURT ORDERS that a copy of any notes and correspondence between hotel security and restaurant management in relation to the identification and preservation of the One

Recording and related material, shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant's expense;

5. THIS COURT ORDERS that all disclosure and production pursuant to this Order be made by McEwan Enterprises Inc. to the Moving Defendant within twenty (20) days of this Order;

6. THIS COURT ORDERS that no party to this action may make physical or digital copies of the One Recording, or make the One Recording available or accessible to the general public, except as required pursuant to the Rules of Civil Procedure and for backup and file storage purposes;

7. THIS COURT ORDERS that upon final resolution of the within action, whether by way of settlement or judgment, that all physical and/or digital copies of the One Recording and all other production by McEwan Enterprises Inc. pursuant to this Order shall be destroyed at each parties' expense, and such destruction will be confirmed in writing to McEwan Enterprises Inc. by the Moving Defendant.

THE CATALYST CAPITAL GROUP
INC. et al.
Plaintiffs

v.

WEST FACE CAPITAL INC. et al.
Defendants

Court File No. CV-17-587463-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

MOTION RECORD OF DARRYL LEVITT

DARRYL LEVITT

30 Speers Road, Apt. 206
Oakville, ON L6K 2E4
darryl@dlevittassociates.com

Self-Represented